

## **BILL ANALYSIS**

Senate Research Center  
84R982 CLG-F

S.B. 1792  
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State Affairs  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

This bill provides a mechanism for a decedent's heirs to obtain information that would enable them to avoid a costly probate administration. When someone dies without a will and the estate totals no more than \$50,000, a small estate affidavit is a less expensive way of probating the estate than traditional estate administration. However, filing a small estate affidavit requires a demonstration that estate assets exceed known liabilities. Thus, lack of access to account balance information can be a barrier to families who would otherwise be able to use a small estate affidavit. S.B. 1792 provides a procedure to obtain this information from a bank or other financial institution through a court order or an affidavit.

As proposed, S.B. 1792 amends current law relating to access to a financial institution account of a person who dies intestate.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Subtitle D, Title 2, Estates Code, to read as follows:

SUBTITLE D. PROCEEDINGS AND OTHER PROCEDURES BEFORE ADMINISTRATION  
OF ESTATE

SECTION 2. Amends Subtitle D, Title 2, Estates Code, by adding Chapter 153, as follows:

CHAPTER 153. ACCESS TO INTESTATE'S ACCOUNT WITH FINANCIAL INSTITUTION

Sec. 153.001. DEFINITIONS. Defines "account," "financial institution," "P.O.D. account," and "trust account."

Sec. 153.002. INAPPLICABILITY OF CHAPTER. Provides that this chapter does not apply to:

- (1) an account with a beneficiary designation;
- (2) a P.O.D. account;
- (3) a trust account; or
- (4) an account that provides for a right of survivorship.

Sec. 153.003. COURT-ORDERED ACCESS TO INTESTATE'S ACCOUNT INFORMATION. Authorizes a court to issue, on application of any person or on the court's own motion, an order requiring a financial institution to release to the person named in the order information concerning the balance of each account that is maintained at the financial institution of a decedent who dies intestate if:

- (1) 90 days have elapsed since the date of the decedent's death;

(2) no petition for the appointment of a personal representative for the decedent's estate is pending; and

(3) no letters testamentary or of administration have been granted with respect to the estate.

Sec. 153.004. ACCESS TO INTESTATE'S ACCOUNT INFORMATION WITHOUT COURT ORDER. Authorizes a financial institution to release to an heir of a decedent who dies intestate information concerning the balance of each of the decedent's accounts that is maintained at the financial institution if 90 days have elapsed since the date of the decedent's death on presentation of a certified copy of the decedent's death certificate and an affidavit that complies with Section 153.005.

Sec. 153.005. FORM OF AFFIDAVIT. Requires that an affidavit presented to a financial institution under this chapter be in substantially a certain form as set forth.

SECTION 3. Effective date: September 1, 2015.